



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF  
STATE PLANNING COORDINATION

June 17, 2004

Mr. Zachary Crouch  
Davis, Bowen & Friedel  
P.O. Box 809  
Milford, DE 19963

RE: PLUS review – PLUS #2004-05-05 – Webb Property

Dear Mr. Crouch:

Thank you for meeting with State agency planners on May 27, 2004 to discuss the proposed plans for Webb property project to be located on Clapham Road near Magnolia.

According to the information received, you are seeking PUD approval through Kent County to place a Planned Unit Development of 510 units on 176.56 acres. In addition, we understand that there are plans for a 10,000 square foot library and 53,000 square foot proposed for local commercial uses.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Kent County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

This office has received the following comments from State agencies:

**Office of State Planning Coordination – Contact: David Edgell 739-3090**

This project is located in Investment Level 2 according to the June 3 version of the 2004 State Strategies for Policies and Spending, which has been approved by the Cabinet Committee for State Planning Issues. Investment Level 2 reflects areas where growth is anticipated by local, county, and state plans in the near term future. State investments will support growth in these areas. Our office has no objections to the development of this project in accordance with the relevant county codes and ordinances.

In addition, we would like to commend the developer for integrating numerous design features consistent with our new design publication titled Better Models for Development in Delaware. These features include centralized open space areas, townhouses with alley access, and a mixture of housing types throughout the development. If properly implemented this project should be a very attractive and viable community. We also commend the developer for considering the donation of land for community facilities in this project.

**State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685**

There are known archaeological sites in the forested area between the two properties. There is also a known site in the northern area of the south part of the development (south of the forested area). The developer should contact the State Historic Preservation Office to schedule a time that archeologists can visit the property and determine the location of these sites and the probability for other sites in the area.

**Department of Transportation – Contact: Bill Brockenbrough 760-2109**

A traffic impact study (TIS) has been completed for this development. While the TIS is still under review, DelDOT anticipates requiring offsite improvements along Sophers Row and Route 113A, including their intersection, and a signal agreement for that intersection. DelDOT anticipates concluding their review of the TIS in December 2004.

It was unclear after the meeting as to whether the proposed streets be private or public? This should be determined and you should contact DelDOT to discuss the street standards required.

Access to corner lots and other lots with frontage on two or more roads will be from the secondary road, as determined by DelDOT, and not from the primary. This policy will affect the access to the library parcel and the commercial lots.

Stub streets should be provided from the north section to the adjoining parcels on the north and west, and from the south section to the adjoining parcels on the west and south.

The developer's engineer should coordinate with the DelDOT Subdivision Manager, Mr. George Shaw, regarding item 1 through 5 above and more broadly regarding plan approvals for the proposed development. Mr. Shaw may be reached at (302) 760-2261.

**The Department of Natural Resources and Environmental Control – Contact:  
Kevin Coyle 739-3091**

**Soils**

According to the Kent County soil survey, the following soils were found in the immediate vicinity of the proposed construction and grouped on the basis of drainage class:

Well Drained – Sassafras & Rumford

Poorly drained (**hydric**) – Fallsington & Mixed alluvial

Sassafras and Rumford are well-drained upland soils that have few limitations for development. Fallsington is a poorly-drained wetland associated (hydric) soil that has severe limitations for development. Mixed alluvial soils are poorly drained wetland associated (hydric) floodplain soils subject to limitations related to high water tables and periodic flooding.

**Wetlands**

Statewide Wetland Mapping Project (SWMP) maps indicate the presence of a small area of Palustrine Forested Wetlands, bordering an unnamed tributary of the St. Jones River.

Because there is strong evidence that federally regulated wetlands exist on site, a **wetland delineation, in accordance with the methodology established by the Corps of Engineers Wetlands Delineation Manual, (Technical Report Y-87-1) should be conducted. Once complete, this delineation should be verified Corps of Engineers through the Jurisdictional Determination process.**

**Impacts to wetlands and their buffer zones should be avoided.** These wetlands and associated upland forests provide important water quality and habitat benefits. A 100' vegetated buffer should be employed from the edge of all wetlands and waterbodies. Where a 100' buffer does not exist, one should be established using native trees and shrubs. While it is important to avoid development activities within wetland areas, the developer should also avoid including wetlands and their buffer zones within residential lot lines to avoid impacts resulting from homeowner activities. Forest and wetland areas excluded from lots should be placed into a permanent conservation easement or other binding protection mechanism.

Impacts to Palustrine wetlands are regulated by the Army Corps of Engineers through Section 404 of the Clean Water Act. Impacts to subaqueous lands are regulated by the DNREC Division of Water Resources, Wetlands and Subaqueous Lands Section. In addition, individual 404 permits and certain Nationwide Permits from the Army Corps of Engineers also require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the

DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process.

**If any impacts to wetlands are proposed, the applicant is encouraged to attend a Joint Permit Process Meeting.** These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting. Contact Denise Rawding at (302) 739-4691 to schedule a meeting.

It is also recommended that the Farm Services Agency of the USDA be contacted to assess whether the farmed wetlands on subject parcel meet the recognized criteria for classification as “prior converted wetlands.” Prior converted wetlands are farmed wetlands that have drained or altered before December 23, 1985, and no longer meet the wetland criteria established under the 404 program. Such wetlands are considered exempt from regulatory protection provided that there is no proof of a continuous “fallow period” of five years or greater in that parcel’s cropping history. Parcels converted after said date regardless of cropping history are considered jurisdictional by the Army Corps of Engineers (ACOE). The contact person for assessing a parcel’s cropping history is Sally Griffin at the USDA – she can be reached at 678-4182.

It should also be noted that this parcel contains sensitive headwater riparian wetlands associated with a tributary of the St. Jones River. Headwater riparian wetlands and/or streams are important for the protection of water quality and the maintenance/integrity of the ecological functions throughout the length of the stream, including the floodplain system downstream. Since headwater streams are a major avenue for nutrient-laden stormwater and sediment runoff, their protection deserves the highest priority. **Because of the importance of headwater streams for water quality maintenance and ecological integrity, it is strongly recommended that the natural forested wetland and/or stream buffer immediately adjacent to the unnamed (or name unknown) headwater tributary to the St. Jones be preserved in its entirety. Therefore, preservation of the existing natural buffer should be considered an additional recommendation above and beyond the recommended 100-foot minimum isolation distance.** For those areas with less than the recommended 100-foot buffer width, the applicant is highly recommended to expand the buffer width to the recommended minimum via plantings of native woody and/or herbaceous vegetation.

## **TMDLs**

Although Total Maximum Daily Loads (TMDLs) as a “pollution runoff mitigation strategy” to reduce nutrient loading have not yet been developed for most of the tributaries or subwatersheds of the Delaware Bay watershed to date, work is continuing on their development. TMDLs for the Leipsic subwatershed, of which this parcel is part, are scheduled for completion in December 2006.

Therefore, until the specified TMDL reductions and pollution control strategies are adopted, it shall be incumbent upon the developer to employ best available technologies

(BATS) and/or best management practices (BMPs) as “methodological mitigative strategies” to reduce degradative impacts associated with development.

### **Stormwater Management**

Reviewing Agency: Kent Conservation District

Individual Reviewer: Jared C. Adkins, P.E.

Reviewer's Phone #: 697-2600, Ext. 3

RE: PLUS 2004-05-05 Webb Property

The reasons and conditions applied to this project and their sources are itemized below:

**Requirements:** **Source:** Delaware Sediment and Stormwater Regulations

1. Land disturbing activities in excess of 5,000 square feet are regulated under the Delaware Sediment and Stormwater Regulations. A detailed sediment and stormwater management plan must be reviewed and approved by our office prior to any land disturbing activity (i.e. clearing, grubbing, filling, grading, etc.) taking place.
2. The review fee and a completed Application for a Detailed Plan are due at the time of plan submittal to our office. Construction inspection fees based on developed area and stormwater facility maintenance inspection fees based on the number of stormwater facilities are due prior to the start of construction. Please refer to the fee schedule for those amounts.

### **Comments:**

1. Based on the site characteristics, a pre-application meeting with the Kent Conservation District will be required to discuss stormwater management and drainage for this site.
2. A culvert capacity analysis will be requested for Sophers Row and Clapham Roads to verify they have sufficient capacity.
3. The preferred methods of stormwater management are those practices that maximize the use of the natural features of a site, promote recharge and minimize the reliance on structural components. The designer is encouraged to consider the conservation design approach and limit the amount of tree clearing required for the development of the site including the stormwater management facilities shown in the wooded areas.
4. A soils investigation supporting the stormwater management facility design is required to determine impacts of the seasonal high groundwater level and soils for any basin design.
5. Ease of maintenance must be considered as a site design component and a maintenance

set aside area for disposal of sediments removed from the basins during the course of regular maintenance should be shown on the Record Plan for the subdivision.

6. All drainage ways and stormdrains should be contained within drainage easements and clearly shown on the plan to be recorded by Kent County.

7. It is recommended that the stormwater management areas be incorporated into the overall landscape plan to enhance water quality and to make the stormwater facility an attractive community amenity.

8. A clear statement of defined maintenance responsibility for stormwater management facilities must be provided on the Record Plan.

9. Proper drainage of developed lots and active open space should be considered in the development of the grading plan for this subdivision.

10. A letter of no objection to recordation will be provided once the detailed Sediment and Stormwater Management plan has been approved.

### **Drainage**

Submitted by the State Drainage Program. Contact Bob Enright, (302) 739-4411

The Drainage Section does not have a clear understanding where the on site storm water will be released off site. The Drainage Section requests that a down stream analysis be done from the upstream side of Sophers Row to downstream of Clapham Road. Analysis to include but not limited to all road crossing culverts, all private culverts, stream and floodplain capacity.

The Drainage Section does ask that all precautions be taken to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water.

The applicant is encouraged to schedule a meeting with Kent Conservation District and DNREC Drainage Section concurrently to discuss the drainage issues.

### **Recreation**

It is recommended that sidewalks be built fronting every residence. A complete system of sidewalks will: 1) fulfill the recreation need for walking and biking facilities 2) provide opportunities for neighbors to interact in the community and 3) facilitate safe, convenient off-road access to neighboring communities, public mass transit stops, schools, stores, work etc. Due to this site's proximity to downtown Magnolia, we see the potential for future residents to conveniently access the downtown area via a bike and

pedestrian pathway from the northern most portion of the property. We encourage that a bike and pedestrian easement be included in the design

If a trail system is planned, we recommend that a series of stacking trail loops be designed with access points in each subdivision “pod” and connections to adjacent communities. Community trail systems with long continuous trails, perimeter-only trails, and systems with few access points, often go unused and neglected. For trail design/construction specifications, contact Susan Moerschel at (302) 739-5285.

The Division of Parks and Recreation conducted a telephone survey of Delaware residents to gather information on outdoor recreation patterns and preferences as well as other information on their landscape perception. These findings are the foundation of the 2003-2008 Statewide Comprehensive Outdoor Recreation Plan (SCORP) providing guidance for investments in needed outdoor recreation facilities. The high and moderate facility needs in Kent County are listed below. Consideration should be given to incorporate some of these recreation opportunities into the project.

High Priorities were found to be walking and jogging paths, bike paths, swimming pools, picnic areas, playgrounds, and fishing areas.

Moderate Priorities were found to be skate facilities, hiking trails, baseball/softball fields, campgrounds, soccer fields, volleyball courts, basketball courts, and canoe/kayak access

### **Underground Storage Tanks**

There are no LUST sites located near the proposed project. However, should any underground storage tank or petroleum contaminated soil be discovered during construction, the Tank Management Branch must be notified as soon as possible. It is not anticipated that any construction specifications would be need to be changed due to petroleum contamination. However, should any unanticipated contamination be encountered and PVC pipe is being utilized, it will need to be changed to ductile steel in the contaminated areas.

### **State Fire Marshal’s Office – Contact: Kevin McSweeney 739-3696**

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal’s Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

a. **Fire Protection Water Requirements:**

- Water distribution system capable of delivering at least 1500 gpm for 2-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers. (Mercantile)
- Water distribution system capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers. (Assembly and Townhouses)
- Where a water distribution system is proposed for single family dwellings it shall be capable of delivering at least 500 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required. (One & Two- Family Dwelling)
- Where a water distribution system is proposed for the site, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

b. **Fire Protection Features:**

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq.ft., 3-stories of more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR
- For townhouse buildings, provide a section / detail and the UL design number of the 2-hour fire rated separation wall on the Site plan.

c. **Accessibility**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Clapham Rd and Sophers Row must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.



d. **Gas Piping and System Information:**

- Provide type of fuel proposed, and show locations of bulk containers on plan.

e. **Required Notes:**

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Proposed Use
- Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Townhouse 2-hr separation wall details shall be shown on site plans
- Note indicating if building is to be sprinklered
- Name of Water Provider
- Letter from Water Provider approving the system layout
- Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: [www.delawarestatefiremarshal.com](http://www.delawarestatefiremarshal.com), technical services link, plan review, applications or brochures

**Department of Agriculture - Contact: Mark Davis 739-4811**

From the information received, it is possible that the 300 foot notification zone will apply due to your proximity to an agricultural preservation district. You should contact Mark Davis to confirm this. If the notification is needed, it should be considered as follows:

**§ 910. Agricultural use protections.**

(1) For any new subdivision development located in whole or in part within 300 feet of the boundary of an Agricultural Preservation District, the owner of the development shall provide in the deed restrictions and any leases or agreements of sale for any residential lot or dwelling unit the following notice:

*“This property is located in the vicinity of an established Agricultural Preservation District in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on*

*acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities."*

This notice applies to ALL deeds in the new subdivision.

**Public Service Commission - Contact: David Bonar 739-4247**

This is an existing Artesian CPCN area.

Any closed system natural gas or propane distribution must meet with pipeline safety requirements.

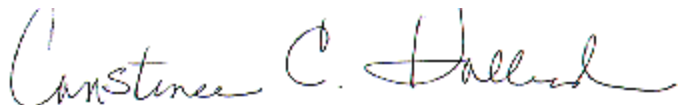
**Delaware State Housing Authority – Contact Karen Horton 739-4263**

Because this development will provide opportunities for first-time homebuyers, the State Housing Authority has noted that they support this application.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in blue ink that reads "Constance C. Holland". The signature is fluid and cursive, with the first name being the most prominent.

Constance C. Holland, AICP  
Director

CC: Lloyd F. Arnold, LLC  
Town of Magnolia